

### **REMARKS**

The above amendments and below remarks are presented in response to the Office Action of November 26, 2003. No new matter has been entered. Entry of the amendments and reconsideration of the above-referenced application is respectfully requested.

#### **Claim Rejections – 35 USC 102**

Claims 1, 5, 16, 22, 23, 40, and 41 stand rejected under 35 USC 102(e) as being anticipated by Dougherty (U.S. Pat. No. 6,356,426).

Claim 40 has been canceled and therefore the rejection of Claim 40 is rendered moot.

Claim 1 has been amended to recite “*an error detection program within the microcomputer, wherein the error detection program rejects current ratings sent to the electronic trip unit that are greater than the frame rating of the circuit breaker.*”

Claim 41 has been rewritten in independent form including all of the limitations of Claim 40. It is noted that claim 41 has not been narrowed by this amendment. Similar to Claim 1, Claim 41 recites “*an error detection program within the microcomputer, wherein the error detection program rejects current ratings sent to the electronic trip unit that are greater than a frame rating of the circuit breaker.*”

Although Claim 41 has been rejected under 35 USC 102(e) as being anticipated by Dougherty, the Examiner does not point to anything within Dougherty that recites an error detection program. At best, Dougherty discloses that breakable links cannot be broken to create a current rating higher than a rating displayed on the plug in device, but this does not equate, suggest, nor make obvious *an error detection program within a microcomputer.*

Thus, it is respectfully submitted that Claim 1, dependent Claim 5, and Claim 41 patentably define over Dougherty.

Claim 16 has been amended to recite “*a bar code on the housing for indicating the current rating*”. This feature is not taught by Dougherty, and Dougherty cannot be applied in a 103 rejection, because, as stated in 35 U.S.C. 103(c):

*(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the*

*time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.*

The Examiner's attention is further directed to MPEP 706.02(1)(2), which states:

*"Application X and Patent A were, at the time the invention of Application X was made, owned by Company Z."*

*This statement alone is sufficient evidence to disqualify Patent A from being used in a rejection under 35 U.S.C. 103(a) against the claims of Application X.*

Thus, in a clear and conspicuous manner, the undersigned respectfully submits the following:

**EVIDENCE TO ESTABLISH COMMON OWNERSHIP**

***U.S. Patent Application No. 09/660,876 and U.S. Patent No. 6,356,426 were, at the time the invention of U.S. Patent Application No. 09/660,876 was made, owned by General Electric Company.***

Thus, in view of the unavailability of the Dougherty reference for a 103 rejection, and since Dougherty no longer anticipates amended Claim 16 since a feature has been added to Claim 16 which is not disclosed by Dougherty, it is respectfully submitted that Claim 16, and the claims which depend upon Claim 16, are now patentable over Dougherty.

As for Claim 22, Claim 22 has been amended to recite *"a plastic housing"*. This feature is not taught by Dougherty, and Dougherty cannot be applied in a 103 rejection as described above. Thus, in view of the unavailability of the Dougherty reference for a 103 rejection, and since Dougherty no longer anticipates amended Claim 22 since a feature has been added to Claim 22 which is not disclosed by Dougherty, it is respectfully submitted that Claim 22 is now patentable over Dougherty.

Claim 23 has been amended to recite *"and wherein the current rating of the circuit breaker is changeable via an Internet connection"*. Similar to Claims 3 and 37, the Examiner has previously stated that the references of record do not teach or suggest that the rating current of the circuit breaker may be changed via the Internet connection, and therefore it is respectfully submitted that Claim 23 and the claims which depend upon claim 23 patentably define over the references of record.

Claims 1, 2, 16, 19, 20, 21, 23, and 24 stand rejected under 35 USC 102(b) as being anticipated by Matsko et al (U.S. Pat. No. 4,809,125).

Claim 1 has been amended to recite *“an error detection program within the microcomputer, wherein the error detection program rejects current ratings sent to the electronic trip unit that are greater than the frame rating of the circuit breaker.”* The Examiner did not state that this feature was either shown or made obvious by Matsko et al, and therefore it is now respectfully submitted that Claim 1 patentably defines over Matsko et al.

Claim 2 has been amended to recite that the current rating of the circuit breaker is changeable via an Internet connection. Similar to Claims 3 and 37, the Examiner has previously stated that the references of record do not teach or suggest that the rating current of the circuit breaker may be changed via the Internet connection, and therefore it is respectfully submitted that Claim 2 patentably defines over the references of record.

Although the Examiner has rejected Claim 16 as being anticipated by Matsko, Applicants respectfully disagree. The Examiner states that there is “a non-volatile memory (embedded in the circuit 100,e.g. see col. 11, lines 37-38)”, however, there is nothing within Matsko to suggest that the non-volatile memory is within the rating plug, which is what Claim 16 recites. That is, Claim 16 recites a rating plug, the rating plug comprising the elements of a housing, a connector, and a non-volatile memory. Thus, even if Matsko discloses a non-volatile memory within the circuit 100, that is not enough to anticipate or make obvious a non-volatile memory within a rating plug. Thus, it is respectfully submitted that Claim 16, and the claims which depend upon Claim 16, are patentable over Matsko.

Claims 19, 20, and 21 depend from Claim 16, and therefore it is respectfully submitted that these claims are patentable for depending on a claim which Applicants respectfully submits as also being allowable.

Claim 23 recites that the rating plug has a non-volatile memory. While the Examiner states that there is “a non-volatile memory (embedded in the circuit 100,e.g. see col. 11, lines 37-38)”, however, there is nothing within Matsko to suggest that the non-volatile memory is within the rating plug, which is what Claim 23 recites. Furthermore, Claim 23 has been amended to recite that the current rating of the circuit breaker may be changed via an Internet connection. Similar to Claims 3 and 37, the Examiner has previously stated that the references of record do not teach or suggest that the rating current of the circuit breaker may be changed via the Internet

connection, and therefore it is respectfully submitted that Claim 23, and the claims which depend upon Claim 23, patentably define over the references of record.

Claim 24 is dependent upon Claim 23, and therefore it is further respectfully submitted that Claim 24 is not anticipated nor made obvious over Matsko for depending upon a claim which is respectfully submitted as being patentable.

**Claim Rejections – 35 USC 103**

Claims 17, 18, 25, and 26 stand rejected under 35 USC 103(a) as being unpatentable over Matsko et al in view of Bilac et al (U.S. Pat. No. 6,560,084)

Claims 17 and 18 have been canceled and therefore the rejection of these claims is rendered moot.

Claims 25 and 26 depend upon Claim 23 which is respectfully submitted as being patentable for the reasons described above regarding the rejection of Claim 23. Thus, it is further respectfully submitted that Claims 25 and 26 are not anticipated nor made obvious over Matsko for depending upon a claim which is respectfully submitted as being patentable.

**Allowable Subject Matter**

It is noted with appreciation that claims 3, 4, and 37-39 have been allowed.

**CONCLUSION**

Thus, it is respectfully submitted that all of the Examiner's rejections have been addressed and it is further respectfully submitted that all of the pending claims, Claims 1-5, 16, 19-26, 37-39, and 41 are allowable over the prior art and allowance is respectfully requested.

If, however, any issues remain, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

Although fees are dealt with in an accompanying sheet, if there are any additional charges with respect to this Amendment and Response, please charge them to Deposit Account No. 06-1130 maintained by Applicants' Attorneys.

Respectfully submitted,

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